

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

ARMANDO HERNANDEZ-MARTINEZ,

10-CV-74-SU

Petitioner,

ORDER

v.

STATE OF OREGON,

Respondent.

BROWN, Judge.

Magistrate Judge Patricia Sullivan issued Findings and Recommendation (#13) on December 22, 2010, in which she recommends this Court deny Petitioner Armand Hernandez-Martinez's Petition (#2) for Writ of Habeas Corpus and dismiss this matter

because Petitioner (1) did not file his Petition within the applicable statute of limitations, (2) is not "in custody" for purposes of challenging his conviction, and (3) failed to notify the Clerk's Office of a change in his mailing address. The Magistrate Judge also recommends the Court deny any certificate of appealability if Petitioner appeals because Petitioner has not made a substantial showing that he was denied a constitutional right. The matter is now before this Court pursuant to 28 U.S.C. § 636(b)(1)(B) and Federal Rule of Civil Procedure 72(b).

Because no objections to the Magistrate Judge's Findings and Recommendation were timely filed, this Court is relieved of its obligation to review the record *de novo*. *Shiny Rock Min. Corp v. U.S.*, 825 F.2d 216, 218. (9th Cir. 1987). *See also Lorin Corp. v. Goto & Co.*, 700 F.2d 1202, 1206 (8th Cir. 1983). Having reviewed the legal principles *de novo*, the Court does not find any error.

CONCLUSION

The Court **ADOPTS** Magistrate Judge Sullivan's Findings and Recommendation (#13). Accordingly, the Court **DENIES** the Petition (#2) for Writ of Habeas Corpus and **DISMISSES** this matter. The Court also **DENIES** any certificate of appealability if Petitioner

appeals.

IT IS SO ORDERED.

DATED this 19th day of January, 2011.

/s/ Anna J. Brown

ANNA J. BROWN
United States District Judge